

**Senate File 242 - Introduced**

SENATE FILE 242

BY ALLEN

**A BILL FOR**

1 An Act relating to child in need of assistance and child abuse  
2 cases involving certain drugs and other substances.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.2, subsection 6, paragraph p, Code  
2 2017, is amended to read as follows:

3 p. Whose parent, guardian, ~~or~~ custodian, or other adult  
4 member of the household in which a child resides does any  
5 of the following: unlawfully uses, possesses, manufactures,  
6 cultivates, or distributes a dangerous substance in the  
7 presence of a child; or knowingly allows such use, possession,  
8 manufacture, cultivation, or distribution by another person  
9 in the presence of a child; or in the presence of a child  
10 possesses a product containing ephedrine, its salts, optical  
11 isomers, salts of optical isomers, or pseudoephedrine, its  
12 salts, optical isomers, salts of optical isomers, with the  
13 intent to use the product as a precursor or an intermediary to  
14 a dangerous substance in the presence of a child; or unlawfully  
15 uses, possesses, manufactures, cultivates, or distributes a  
16 dangerous substance in a child's home, on the premises, or in a  
17 motor vehicle located on the premises.

18 (1) For the purposes of this paragraph, "*in the presence*  
19 *of a child*" means in the physical presence of a child ~~during~~  
20 ~~the manufacture or possession, the manufacture or possession~~  
21 ~~occurred in a child's home, on the premises, or in a motor~~  
22 ~~vehicle located on the premises, or the manufacture or~~  
23 ~~possession occurred~~ or occurring under other circumstances  
24 in which a reasonably prudent person would know that the  
25 use, possession, manufacture or possession, cultivation, or  
26 distribution may be seen, smelled, or heard by a child.

27 (2) For the purposes of this paragraph, "*dangerous*  
28 *substance*" means any of the following:

29 (a) Amphetamine, its salts, isomers, or salts of its  
30 isomers.

31 (b) Methamphetamine, its salts, isomers, or salts of its  
32 isomers.

33 (c) A chemical or combination of chemicals that poses a  
34 reasonable risk of causing an explosion, fire, or other danger  
35 to the life or health of persons who are in the vicinity while

1 the chemical or combination of chemicals is used or is intended  
2 to be used in any of the following:

3 (i) The process of manufacturing an illegal or controlled  
4 substance.

5 (ii) As a precursor in the manufacturing of an illegal or  
6 controlled substance.

7 (iii) As an intermediary in the manufacturing of an illegal  
8 or controlled substance.

9 (d) Cocaine, its salts, isomers, salts of its isomers, or  
10 derivatives.

11 (e) Heroin, its salts, isomers, salts of its isomers, or  
12 derivatives.

13 (f) Opium and opiate, and any salt, compound, derivative, or  
14 preparation of opium or opiate.

15 Sec. 2. Section 232.68, subsection 2, paragraph a,  
16 subparagraph (7), Code 2017, is amended to read as follows:

17 (7) The person responsible for the care of a child ~~has,~~  
18 in the presence of ~~the~~ a child, as defined in section 232.2,  
19 subsection 6, paragraph "p", ~~manufactured~~ unlawfully uses,  
20 possesses, manufactures, cultivates, or distributes a dangerous  
21 substance, as defined in section 232.2, subsection 6, paragraph  
22 "p", ~~or in the presence of the child~~ knowingly allows such  
23 use, possession, manufacture, cultivation, or distribution  
24 by another person in the presence of a child; possesses a  
25 product containing ephedrine, its salts, optical isomers, salts  
26 of optical isomers, or pseudoephedrine, its salts, optical  
27 isomers, salts of optical isomers, with the intent to use  
28 the product as a precursor or an intermediary to a dangerous  
29 substance in the presence of a child; or unlawfully uses,  
30 possesses, manufactures, cultivates, or distributes a dangerous  
31 substance in a child's home, on the premises, or in a motor  
32 vehicle located on the premises.

33 Sec. 3. Section 232.77, subsection 2, Code 2017, is amended  
34 to read as follows:

35 2. a. If a health practitioner discovers in a child

1 physical or behavioral symptoms of the effects of exposure  
 2 to cocaine, heroin, amphetamine, methamphetamine, or other  
 3 illegal drugs, or combinations or derivatives thereof, which  
 4 were not prescribed by a health practitioner, or if the health  
 5 practitioner has determined through examination of the natural  
 6 mother of the child that the child was exposed in utero, the  
 7 health practitioner may perform or cause to be performed a  
 8 medically relevant test, as defined in [section 232.73](#), on the  
 9 child. The practitioner shall report any positive results of  
 10 such a test on the child to the department. The department  
 11 shall begin an assessment pursuant to [section 232.71B](#) upon  
 12 receipt of such a report. A positive test result obtained  
 13 prior to the birth of a child shall not be used for the criminal  
 14 prosecution of a parent for acts and omissions resulting in  
 15 intrauterine exposure of the child to an illegal drug.

16 b. If a health practitioner involved in the delivery or  
 17 care of a newborn or infant discovers in the newborn or infant  
 18 physical or behavioral symptoms that are consistent with the  
 19 effects of prenatal drug exposure or a fetal alcohol spectrum  
 20 disorder, the health practitioner shall report such information  
 21 to the department in a manner prescribed by rule of the  
 22 department.

#### 23 EXPLANATION

24 The inclusion of this explanation does not constitute agreement with  
 25 the explanation's substance by the members of the general assembly.

26 This bill relates to certain drugs and other substances and  
 27 child in need of assistance and child abuse.

28 The bill amends the definition of a child in need of  
 29 assistance to provide that an unmarried child whose parent,  
 30 guardian, custodian, or other adult member of the child's  
 31 household who unlawfully uses, possesses, manufactures,  
 32 cultivates, or distributes a dangerous substance in the  
 33 presence of a child or knowingly allows such activities  
 34 by another person in the presence of a child; possesses a  
 35 product with the intent to use the product as a precursor or

1 an intermediary to a dangerous substance in the presence of a  
2 child; or unlawfully uses, possesses, manufactures, cultivates,  
3 or distributes a dangerous substance in a child's home, on the  
4 premises, or in a motor vehicle located on the premises, may be  
5 the subject of a child in need of assistance petition.

6 The bill amends the definition of child abuse to provide that  
7 a person responsible for the care of a child who unlawfully  
8 uses, possesses, manufactures, cultivates, or distributes a  
9 dangerous substance in the presence of a child or knowingly  
10 allows such activities by another person in the presence of a  
11 child; possesses a product with the intent to use the product  
12 as a precursor or an intermediary to a dangerous substance  
13 in the presence of a child; or unlawfully uses, possesses,  
14 manufactures, cultivates, or distributes a dangerous substance  
15 in a child's home, on the premises, or in a motor vehicle  
16 located on the premises may be the subject of an allegation of  
17 child abuse.

18 The bill amends the definitions of "in the presence of a  
19 child" and "dangerous substance" for purposes of both child  
20 in need of assistance and child abuse definitions. "In  
21 the presence of a child" means in the physical presence of  
22 a child or occurring under other circumstances in which a  
23 reasonably prudent person would know that the use, possession,  
24 manufacture, cultivation, or distribution may be seen, smelled,  
25 or heard by a child. The bill includes cocaine, heroin, and  
26 opium or opiates in the list of dangerous substances.

27 The bill requires a health practitioner involved in the  
28 delivery or care of a newborn or infant, who discovers in the  
29 newborn or infant physical or behavioral symptoms that are  
30 consistent with the effects of prenatal drug exposure or a  
31 fetal alcohol spectrum disorder, to report such information  
32 to the department of human services in a manner prescribed by  
33 rule of the department. "Health practitioner" is defined in  
34 Code section 232.2 to mean a licensed physician or surgeon,  
35 osteopathic physician or surgeon, dentist, optometrist,

1 podiatric physician, or chiropractor, a resident or intern  
2 of any such profession, and any registered nurse or licensed  
3 practical nurse. This reporting requirement is required under  
4 the federal Child Abuse Prevention and Treatment Act (CAPTA).